IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITIONER NO.8568 OF 2005

Nathu Parvati Mote & Ors. .. Petitioners

Versus

Mrs.Alka Nathu Mote & Ors. .. Respondents

Ms.Nayana V. Thatte for petitioners.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 7th February 2006.

P.C.

. Heard Ms.Thatte appearing for petitioners. Perused with her assistance, application for maintainance filed in Regular Civil Suit No.30 of 2004 and the reply of

petitioners thereto.

2. Although, petitioners would challenge the maintainability of the application which is filed in the suit of first respondent wife for partition and separate possession and when the marriage is disputed, in my view, on both issues a prima facie view is taken by the trial court while awarding interim maintainance from the date of the order i.e. 1st October 2005.

3. The trial court has relied upon school leaving certificate and photocopies of ration card to prima facie hold existence matrimonial relationship. In my view, there is no perversity or error apparent disclosed in the impugned order. This court cannot go into sufficiency or adequacy of materials produced at prima facie stage. The order is fair and in the interest of both sides. The same requires no interference despite all pursuasive efforts of Ms.Thatte.

Petition is dismissed. Disposal of this petition would not prevent petitioner from disputing the marriage and merely because a prima facie view has been taken by the trial court, it is not as if said issue is concluded.

(S.C.DHARMADHIKARI, J)